

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10568 of 2004

Between:

M/s Sri Venkateswara Constructions, H.No. 1-7-1339, Advocates'
Colony,

Hanmakonda, Warangal Town & District, rep. by its Managing
Partner, Sri

M. Ravinder Reddy S/o Ramakrishna Reddy, aged 50 yrs, R/o H.No.
1-7-1339, Advocates' Colony, Hanmakonda, Warangal Town &
District

..... PETITIONER

AND

- 1 The Superintending Engineer, Panchayat Raj Circle, Warangal.
- 2 The Superintending Engineer, Panchayat Raj Circle, Karimnagar.
- 3 The Pay & Accounts Officer, Karimnagar.
- 4 The Regional Vigilance and Enforcement Officer, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of mandamus, declaring the action of the respondents in issuing the impugned order in Lr.No. AB1/390/SC/02-03 dt. 11-3-2003 and Lr.No. AB1/390/SC/02/KNP 32 dt. 23-10-2002 in demanding additional Seigniorage Charges as is illegal, arbitrary and unconstitutional and in violation of principles of G.O.Ms.No. 195 PR & RD (Progs.II) Dept, dt.

10-5-1999 and consequently set aside the impugned orders Lr.No. AB1/390/SC/02-03 and Lr.No. AB1/390/SC/02/KNP 32 dt. 23-10-2002.

Counsel for the Petitioner: MR. B. NARAYANA REDDY, Advocate

**Counsel for the Respondents: GP FOR PANCHAYAT RAJ &
RURAL DEVELOPMENT**

The Court at the admission stage made the following :

-

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development.

This writ petition has been filed by the petitioner seeking to declare the action of the respondents in issuing the impugned orders in Lr.No.AB1/390/SC/02-03, dated 11-3-2003 and Lr.No.AB1/390/SC/02/KNP-32, dated 23-10-2002 in demanding additional seigniorage charges, as illegal, arbitrary, unconstitutional and in violation of G.O.Ms. No.195 PR & RD (Progs.II) Dept., dated 10-5-1999 and consequently to set aside the said orders.

The petitioner entered into a contract work relating to upgradation of (5) rural roads in Karimnagar District Package No.KNP-32, dated 29-2-2000 and the said work was completed by him. As per the contract agreement, the seigniorage charges will be recovered from contractor's bills in terms of Para 3.01.4 of G.O.Ms. No.195 Panchayat Raj & Rural Development (Progs-II) Department, dated 10-05-1999 (for short 'G.O.Ms.No.195') at the prevailing rates as on the date of agreement. Para 3.01.4 of G.O.Ms.No.195 reads as under:

“The seigniorage charges will be recovered from contractor's

bills as per the rates prescribed in the contract documents for the materials used on the work only. The present practice of insisting for production of documentary evidence for having paid the seigniorage charges in terms of G.O.Ms.No.243, dated 8-5-1986 and in the absence of such production of the evidence, the imposition of the five times penalty is dispensed with.....”

After completion and execution of the work awarded under the aforesaid agreement, the seigniorage charges were recovered from the bills of the petitioner as per the rates prescribed in G.O.Ms. No.195. Thereafter, the second respondent issued letters dated

23-10-2002 and 11-3-2003 to the petitioner informing that the fourth respondent-Regional Vigilance and Enforcement Officer, Karimnagar has instructed him to recover short recoveries of seigniorage charges from the petitioner's bills in terms of G.O.Ms. No.331 Industries and Commerce (MI) Department, dated 21-6-2000 (for short “G.O.Ms.No.331”). It is the case of the petitioner that he is liable to pay seigniorage charges as applicable as on the date of the agreement but not as per the revised rates prescribed in G.O.Ms. No.331, which is prospective in nature and will not govern the concluded contracts. Questioning the impugned letters of the impugned letters of the second respondent, the present writ petition is filed.

It is submitted by the learned counsel for the petitioner and admitted to by the learned Government Pleader for Panchayat Raj and Rural Development that the subject matter of this writ petition is squarely covered by the judgment of this Court in W.P. No.13263 of 2003, dated 19-12-2003. In the circumstances, following the said

judgment this writ petition is disposed of in the following terms.

It is not in dispute that as per the terms and conditions of the agreement, particularly clause 4(x) of the agreement, the seigniorage charges will be recovered from the contractor's bills in terms of G.O.Ms.No.195, dated 10-5-1999 at the prevailing rates as on the date of agreement. In the absence of any contract to the effect that the contractor is liable to pay seigniorage charges during the contract period as per the rates prevailing or as per the revised rates, the rates which will be recoverable as on the date of agreement will be final and the same can be recovered from the contractor's bills until the completion of the contract. In the absence of such agreement, no accrued right is reserved with the employer to recover seigniorage charges at the rates applicable from time to time. It is not open for the respondents to alter unilaterally the terms and conditions of the contract and recover the seigniorage charges at higher rate than the rate agreed upon. In view of the same, the revised rates as prescribed in G.O.Ms.No.331, dated 21-6-2000 cannot be made applicable to the concluded contracts and the respondents are entitled to recover the seigniorage charges only at the rates prevailing as on the date of agreement, but not otherwise.

With the above observations, the writ petition is disposed of.
No costs.

N.V. RAMANA, J

Date: 25-06-2004

SVV

To

- 1 The Superintending Engineer, Panchayat Raj Circle, Warangal.
- 2 The Superintending Engineer, Panchayat Raj Circle, Karimnagar.
- 3 The Pay & Accounts Officer, Karimnagar.
- 4 The Regional Vigilance and Enforcement Officer, Karimnagar.
- 5 Two C.Cs. to GP for Panchayat Raj & Rural Development, High Court
buildings, Hyderabad (OUT)
6. Two CD copies.